

**JOINT EXERCISE OF POWERS AGREEMENT
BETWEEN COUNTY OF CALAVERAS AND CITY OF ANGELS
FOR SOLID WASTE MANAGEMENT**

This AGREEMENT is hereby made and entered into this 15th day of September, 2003, by and between COUNTY OF CALAVERAS, State of California, hereinafter referred to as the County, and City of Angels, State of California, hereinafter referred to as the City.

WITNESSETH

WHEREAS, the parties entered into an exercise of joint powers agreement dated September 28, 1992 for the purpose of providing, operating and maintaining a "countywide" solid waste management system; and,

WHEREAS, the City, on behalf of its residents, wishes to continue use of solid waste facilities that are owned and operated by the County; and,

WHEREAS, the County owns and operates the Rock Creek Solid Waste Facility for the disposal of solid wastes generated within the unincorporated County and the incorporated limits of the City; and,

WHEREAS, the County assesses and collects a solid waste parcel fee on all developed parcels within the unincorporated County and the incorporated limits of the City; and

WHEREAS, the legislative body of the City by Resolution No. 92-41 has consented to imposing the solid waste parcel fee within the incorporated area of the City as required by Government Code Section 25830 (a) prior to its imposition; and

WHEREAS, the California Integrated Waste Management Act of 1989 (hereinafter called the "Act", Public Resources Code, §40000 et. seq.) stipulates that, among other things, the city and county shall prepare plans to divert 50 percent of all solid waste on and after January 1, 2000, through source reduction, recycling, and composting activities" (PRC §41780); and,

4. *Administrative Agent.* The County of Calaveras, as the exclusive owner and operator of solid waste facilities in the County, is designated as the party to administer this Agreement by and through its departments and officers.

As the administrative agent for this Agreement, the County of Calaveras shall be construed as a "Regional Agency" as defined by Public Resources Code 40181 for the purposes of complying with the provisions of Article 1, Chapter 6, Part 2, Division 30 of the California Public Resources Code.

Regional Agency: Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

Members: County of Calaveras
891 Mountain Ranch Road
San Andreas, CA 95249

City of Angels
Post Office Box 667
Angels Camp, CA 95222

5. *Duties and Responsibilities.* On or before the 1st day of July of each calendar year, the Board of Supervisors of the County of Calaveras shall, by Resolution, establish a schedule of fees pursuant to Section 25830 et seq. of the Government Code to be imposed on land within the unincorporated area of the County and within incorporated areas which do not provide their own waste disposal sites. Such schedule of fees shall be imposed on land within the territorial limits of the City of Angels. The revenue from such fees shall be used for the operation and maintenance of the countywide solid waste system. In establishing the schedule of fees, the Board of Supervisors shall classify such land based upon its various uses, the volume of waste occurring from the different land uses, and any other factor that the Board of Supervisors determines would reasonably relate the waste disposal fee to the land upon which it would be imposed.

The Administrative Agent shall be responsible for complying with the provisions of California Government Code Section 6500 et seq. In this regard, it is recognized that a separate agency or entity is not being created. The Administrative Agent's responsibilities shall include, but not be limited to, providing a strict account of all funds and report of all receipts and disbursements. The County shall retain exclusive ownership of any property acquired in carrying out its responsibilities under this Agreement. As may be required by Government Code Section 6505.1, Members agree that the Regional Agency shall designate a custodian of any subject property and require the custodian to post an official bond determined and fixed by the Regional Agency.

The Administrative Agent shall be responsible for complying with the provisions of Article 1, Chapter 6, Part 2, Division 30 of the California Public Resources Code. In this regard, the Administrative Agent's responsibilities shall include, but not be limited to, meeting all planning, diversion, disposal, and reporting requirements of the Act. The administering agency shall assume the responsibility for implementing integrated waste management programs as identified in the various elements of the approved Countywide Integrated Waste Management Plan, as well as for preparing and submitting the required annual compliance reports to the Waste Board. Each Member shall be responsible for full participation, cooperation, and assistance with the Administrative Agent.

6. *Schedule of Fees.* The schedule of fees for the 2003/04 fiscal year shall be as set forth by the County Board of Supervisors. A copy of this Resolution is appended hereto. As set forth in the Resolution, the fee for one "Residential Equivalent" is \$150.00 per year.

No fee or fees may be increased during the term of this Agreement without the written agreement of the parties hereto.

7. *Procedure for Collection of Fees.* The procedure for collection of said fees shall be as set forth by Resolution adopted by the Board of Supervisors of the County of Calaveras.

8. *Amendment.* This Agreement may be amended at any time by mutual agreement of the parties provided that before any amendment is operative or valid, it shall be reduced to writing and signed by all parties hereto.

9. *Partial Invalidity.* If any one or more of the terms, provisions, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants and conditions of this Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

10. *Dissolution.* In the event of that this Agreement is terminated and the Regional Agency is abolished, Members shall become independent and shall assume full responsibility for compliance with the provisions of Article 1, Chapter 6, Part 2, Division 30 of the California Public Resources Code. This responsibility includes, but is not limited to, independently meeting all diversion, disposal, and reporting requirements of Article 1. Each Member will assume the responsibility for implementing integrated waste management programs as identified in the Countywide Integrated Waste Management Plan. Each Member will assume the responsibility for preparing and submitting the required AB939 annual reports for their jurisdiction to the Waste Board. Individual Members will assume responsibility for any civil penalties that may be incurred by their jurisdiction as a result of their failure to comply with the stated provisions.

After the completion of its purpose, any surplus money on hand shall be returned in proportion to the contributions made pursuant to Government Code Section 6512. All other assets and liabilities shall be retained by the County.

11. Safeguards. The Members desire to avoid the imposition by the Waste Board of civil penalties and other sanctions and to comply with the Act. To that end, the Members agree as follows.

- a. **Waste Board Notices.** Promptly after receipt, the Administrative Agent shall provide a copy of each of the following notices and other communications from the Waste Board to each Member.
 - i. Any notice of conditional approval, notice of deficiency, or equivalent to the Regional Agency concerning the Regional Agency's SRRE, HHWE or NDFE, or any amendment to or revision of any of such Elements. (Act §41810.)
 - ii. Any notice, letter or other written or oral communication (or invitation or request to confer or meet) to the Regional Agency, to County or to any other Member regarding either (A) deficiencies regarding implementation of the County or Regional Agency's SRRE or HHWE, or (B) conditions relating to a proposed order of compliance, including any notice or other communication concerning the first meeting occurring not less than 60 days before the Waste Board issuance of a notice of intent to issue an order of compliance pursuant to Act §41825(c)(1).
 - iii. Any notice to the Regional Agency, County or any other Member of intent to issue a compliance order (Act §41825(c)(2)).
 - iv. Upon request of a Member, any proposed or final staff reports of the Waste Board, resolutions, compliance orders and other Waste Board communications or actions subsequent to any of the above notices.

August 2003

- b. **Regional Agency Submittals.** The Administrative Agent shall provide each Member with copies of all plans and reports that the Regional Agency may be required to submit to the Waste Board in accordance with the Act.
- c. **Reserves.** In the event that Waste Board issues notice of intent to issue a compliance order (Act §41825(c)(2), the Administrative Agent shall cause funds to be set aside for the sole purpose of satisfying said penalties.

12. Civil Penalties. The City and the County, as Members of the Regional Agency, may be liable for civil penalties which may be imposed by the Waste Board pursuant to PRC §41813 or §41850. In the event the procedures set forth in Section 11 are not successful in avoiding Waste Board civil penalties, then the Members hereby agree to apportion such civil penalties as described below:

- a. **Penalties less than reserves –** Where each Member has fulfilled its duties and responsibilities identified under Section 5 and sufficient reserves are available in the solid waste trust funds, the Administrative Agent shall be responsible for payment from the reserves of any civil penalties that may be levied by the Waste Board as provided by §41813 and §41850 of the California Public Resources Code.
- b. **Penalties in excess of reserves –** Any civil penalty described in Section 12, which is imposed on the Regional Agency or on a Member in an amount that exceeds available reserves, shall not be borne by the Regional Agency. All amounts in excess of reserves shall instead be apportioned between the Members based on the extent to which each Member's fault has caused the sanction. The extent of each Member's fault shall be determined by the local hearing panel established pursuant to Public Resources Code Section 44308 and shall be based on the extent to which

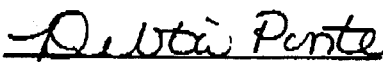
the Member has failed to perform its responsibilities under Section 5 and the other provisions of this Agreement.

IN WITNESS HEREOF, the parties hereto have hereunto executed this AGREEMENT the
day and year first above written.

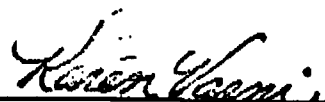
COUNTY OF CALAVERAS

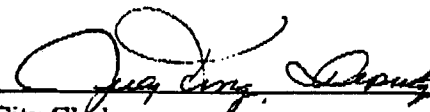
CITY OF ANGELS

By 
Chair, Board of Supervisors

By 
Mayor

ATTEST:


County Clerk and Ex-Officio Clerk
to the Board of Supervisors,
County of Calaveras, California


City Clerk

APPROVED AS TO FORM:


County Counsel

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BOARD OF SUPERVISORS
COUNTY OF CALAVERAS, STATE OF CALIFORNIA
SEPTEMBER 15, 2003

RESOLUTION
NO. 03-269

RESOLUTION AUTHORIZING CHAIR TO EXECUTE REVISED
JOINT EXERCISE OF POWERS AGREEMENT BETWEEN CITY OF
ANGELS AND COUNTY OF CALAVERAS FOR SOLID WASTE
MANAGEMENT

WHEREAS, the parties entered into an exercise of joint powers agreement dated September 28, 1992 for the purpose of providing, operating and maintaining a "countywide" solid waste management system for use by City of Angels residents; and,

WHEREAS, the County owns and operates the Rock Creek Solid Waste Facility for the disposal of solid wastes generated within the unincorporated County and the incorporated limits of Angels Camp; and,

WHEREAS, the County assesses and collects a solid waste parcel fee on all developed parcels within the unincorporated County and the incorporated limits of Angels Camp; and,

WHEREAS, California Public Resources Code (PRC) Section 40970 through 40975 provides for the formation of "Regional Agencies" by cities and counties for the purposes of complying with Public Resources Code, Division 30, Part 2, Chapter 6, Article 1; and,

WHEREAS, the parties to this Agreement wish to revise the joint exercise of powers agreement as appropriate to designate a "Regional Agency" for the purpose of tracking and reporting disposal to the Rock Creek Solid Waste Facility and calculating diversion without distinction or separation between jurisdictions.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors, County of Calaveras, State of California, that the Chair of the Board of Supervisors is hereby authorized to execute the revised joint exercise of powers agreement between City of Angels and County of Calaveras and to designate the County as a "regional agency" for the purposes of complying with Public Resources Code, Division 30, Part 2, Chapter 6, Article 1.

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STAFF
Clerk
I, _____, County Clerk of the County of Calaveras, do hereby certify that the foregoing is a true and correct copy of the minutes of a meeting of the Board of Supervisors of said County. IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of said Board to be affixed.

This 18th day of Sept. 2003
KAREN VARNI, County Clerk

By Carol Slater Deputy

1 ON A MOTION BY Supervisor Callaway, seconded by Supervisor
2 Tryon, the foregoing Resolution was duly passed and adopted by the Board
3 of Supervisors of the County of Calaveras, State of California, this 15th day of September,
4 2003, by the following vote:

5 AYES: Supervisors: Thein, Tryon, Callaway, Erickson, Stein

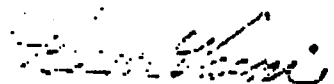
6 NOES: None

7 ABSENT: None

8 ABSTAIN: None

9
10 ATTEST:


Chair, Board of Supervisors

11
12 
13 County Clerk and Ex-Officio Clerk
14 to the Board of Supervisors.
County of Calaveras, California

Board Meeting
January 18-19, 2005

Agenda Item 14
Attachment 2

CITY OF ANGELS
CITY COUNCIL

RESOLUTION #03-37

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE REVISED
JOINT EXERCISE OF POWERS AGREEMENT
BETWEEN THE CITY OF ANGELS AND COUNTY OF CALAVERAS
FOR SOLID WASTE MANAGEMENT

WHEREAS, the parties entered into an exercise of joint powers agreement dated September 28, 1992 for the purpose of providing, operating and maintaining a "countywide" solid waste management system for use by City of Angels residents; and

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WHEREAS, California Public Resources Code (PRC) Section 40970 through 40975 provides for the formation of "Regional Agencies" by cities and counties for the purpose of complying with Public Resources Code, Division 30, Part 2, Chapter 6, Article 1; and

WHEREAS, the parties to this Agreement wish to revise the joint exercise of powers agreement as appropriate to designate a "Regional Agency" for the purpose of tracking and reporting disposal to the Rock Creek Solid Waste Facility and calculating diversion without distinction or separation between jurisdictions;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Angels that the Mayor is hereby authorized to execute the revised joint exercise of powers agreement between the County of Calaveras and the City of Angels;

PASSED AND ADOPTED THIS 19TH DAY OF AUGUST, 2003 BY THE FOLLOWING VOTE:

AYES: Ponte, Seaton, Hutchinson, Raggio
NOES : None
ABSTAIN: None
ABSENT: Middleton

Debbie Ponte
Mayor

ATTEST:

Debbie Ponte
City Clerk